

Remarks

Claim 1, 7-10, and 21-25 are pending in the application. In the Office Action mailed December 23, 2009, the Examiner rejected claims 1, 7-10, and 21-25 under 35 U.S.C. § 112, second paragraph, as being indefinite and rejected claims 1, 7-10, and 21-25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Pub No. 2002/0116473 (hereinafter "*Gemmell*") in view of U.S. Pat. No. 6,496,980 (hereinafter "*Tillman*"), U.S. Pat. No. 5,790,935 (hereinafter "*Payton*") and U.S. Pat. No. 6,92,705 (hereinafter "*Chadda*"). In this Amendment, Applicants have amended claims 1, 7, 8 21 and 25.

Rejections Under 35 U.S.C. § 112

Claim 7 has been amended to overcome the 112 rejection.

35 USC 103 (a) Rejections

The Examiner rejected claims 1, 3-4, 6-13, 15-17 and 21-25 under 35 USC 103(a) as being unpatentable over *Gemmell* in view of *Tillman*, *Payton* and *Chadda*. Claim 1 has been amended to recite "selecting a combination from the plurality of combinations that is optimized for the predetermined bandwidth assigned to one of the asymmetrical digital subscriber lines for the subscriber terminal wherein the combination comprises an optimized higher quality video portion and the lower quality video portion; and downloading in real time the optimized higher quality portion for the selected combination", which is not described by the combination of *Gemmell* in view of *Tillman*, *Payton* and *Chadda*.

In contrast, *Gemmell* describes a client based decision on downloading a quality level of video based on available bandwidth. The bandwidth is not a predetermined bandwidth assigned to a subscriber line. In addition, the combination of the lower quality

video portion and the higher quality video portion are not optimized for the predetermined bandwidth assigned to the digital subscriber line. *Chadda* fails to describe selecting dividing sub-bands into low quality and other quality video portion combinations where each combination of the low quality and a higher quality video portion generates a different quality video optimized for a predetermined bandwidth assigned to the requesting subscriber terminal. *Chadda* sends video portions based on an available bandwidth. *Chadda* however fails to describe optimizing the video portions for the predetermined bandwidth assigned to the digital subscriber line.

Tillman describes an asymmetric DSL was known at the time of the invention, but does not describe *Tillman* sends video portions without regard to selecting combinations of video portions of optimized for a predetermined bandwidth. Finally, *Payton* describes allowing a user to select a quality of video but does not describe sending optimized video portions based on a predetermined bandwidth assigned to the subscriber terminal. Thus it is believed that claim 1 is patentable over the combination of *Gemmel* in view of *Tillman*, *Payton* and *Chadda*. It is further believed that claims 7-10 are also patentable over the combination of *Gemmel* in view of *Tillman*, *Payton* and *Chadda* as discussed above. Applicants request reconsideration in light of the Amendments to the claims.

Claim 21 has been amended to recite, "instructions to download the higher quality video portion optimized for the predetermined bandwidth assigned to the digital subscriber line for the networked device in real time in response to the selection request" which is not described by the combination of *Gemmel* in view of *Tillman*, *Payton* and *Chadda*. *Gemmel* describes a client based decision on downloading a quality level of video based on available bandwidth. The bandwidth is not a predetermined bandwidth

assigned to a subscriber line. In addition, the combination of the lower quality video portion and the higher quality video portion are not optimized for the predetermined bandwidth assigned to a digital subscriber line. *Chadda* fails to describe selecting dividing sub-bands into low quality and other quality video portion combinations where each combination of the low quality and a higher quality video portion generates a different quality video optimized for a predetermined bandwidth assigned to the requesting subscriber terminal. *Chadda* sends video portions based on an available bandwidth. *Chadda* however fails to describe optimizing the video portions for a predetermined bandwidth assigned to a subscriber line.

Tillman shows that asymmetric DSL was known at the time of the invention. *Tillman*, however, sends video portions without regard to selecting combinations of video portions optimized for the predetermined bandwidth assigned to the subscriber line. Finally, *Payton* describes allowing a user to select a quality of video but does not describe sending optimized video portions based on a predetermined bandwidth assigned to the subscriber terminal. Thus it is believed that claim 21 is patentable over the combination of *Gemmel* in view of *Tillman*, *Payton* and *Chadda*.

Claim 25 has been amended to recite, "instructions to downloading a complete copy of the low-quality video portion to a subscriber terminal via the asymmetrical digital subscriber line during off-peak hours for storage locally at the subscriber terminal" which is not described by the combination of *Gemmel* in view of *Tillman*, *Payton* and *Chadda*. *Gemmel* describes a client based decision on downloading a quality level of video based on available bandwidth. The bandwidth is not a predetermined bandwidth assigned to a subscriber line. In addition, the combination of the lower quality video portion and the

higher quality video portion are not optimized for a predetermined bandwidth assign to the subscriber line. *Chadda* fails to describer selecting dividing sub-bands into low quality and other quality video portion combinations where each combination of the low quality and a higher quality video portion generates a different quality video optimized for a predetermined bandwidth assigned to the requesting subscriber terminal. *Chadda* sends video portions based on an available bandwidth. *Chadda* however fails to describe optimizing the video portions for a predetermined bandwidth assigned to a subscriber line.

Tillman shows that asymmetric DSL was known at the time of the invention. *Tillman*, however, describes sending video portions without regard to selecting combinations of video portions optimized for the predetermined bandwidth assigned to the subscriber line. Finally, *Payton* describes allowing a user to select a quality of video but does not describe sending optimized video portions based on a predetermined bandwidth assigned to the subscriber terminal. Thus it is believed that claim 25 is patentable over the combination of *Gemmel* in view of *Tillman*, *Payton* and *Chadda*.

The claims have been amended to respond to the objections in the action. It is respectfully urged that in light of the above amendments and submissions that applicant's claims are patentable in light of the cited references. It is believed that the foregoing response is full, complete, and timely filed. Applicant respectfully requests reconsideration of the instant application in light of the foregoing response and amendments. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of the application, the Examiner is invited to contact the Applicants' representative by telephone at (713) 400-1100, fax, or email.

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Respectfully submitted,



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